

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THEMIS CAPITAL, LLC and DES :
MOINES INVESTMENTS LTD., :

Plaintiffs, :

-v- :

DEMOCRATIC REPUBLIC OF CONGO :
and CENTRAL BANK OF THE :
DEMOCRATIC REPUBLIC OF THE :
CONGO, :

Defendants. :
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09 Civ. 1652 (PAE)

**FOURTH REVISED CIVIL
CASE MANAGEMENT PLAN
AND SCHEDULING ORDER**

This Fourth Revised Civil Case Management Plan (the "Plan") is submitted by the parties in accordance with Fed. R. Civ. P. 26(f)(3).

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c).
2. This case is not to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. The deadline to file any motion to amend or to join additional parties has passed and such motion is no longer permitted.
4. Initial disclosures, pursuant to Fed. R. Civ. P. 26(a)(1), shall be completed no later than August 24, 2012.
5. All fact discovery shall be completed no later than May 10, 2013. Document production shall be completed by March 29, 2013 with the exceptions that the parties may produce any documents not previously produced that they intend to use in connection with summary judgment briefing by April 19, 2013 and that ongoing third-party document production shall be completed by April 29, 2013.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5 above.
 - a. Initial requests for production of documents to be served by September 7, 2012.

- b. Interrogatories to be served by January 7, 2013.
 - c. Depositions to be completed by May 10, 2013.
 - d. Requests to Admit to be served no later than January 7, 2013.
7. a. All expert discovery shall be completed no later than June 24, 2013.
- b. The parties will agree on a date prior to the date for completion of fact discovery in paragraph 5, by which the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) expert report(s) of the party with the burden of proof shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 7(a).
8. All motions and applications shall be governed by the Court's Individual Rules and Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed. Pursuant to the authority of Fed. R. Civ. P. 16(c)(2), any motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing by May 24, 2013. Any response to such letter shall be provided no later than May 30, 2013.
9. All counsel must meet face-to-face for at least one hour to discuss settlement within fourteen (14) days following the date for the completion of fact discovery in paragraph 5.
10. a. Counsel for the parties have discussed an informal exchange of information in aid of early settlement of this case and have agreed upon the following:
- Judge Daniels directed that the parties participate in mandatory settlement negotiations with Magistrate Judge Fox, which involved an exchange of certain information. The parties agree that those disclosures were sufficient at that time for settlement purposes.
- b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately-retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case:
- Settlement conferences mediated by a Magistrate Judge have already occurred.
- c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph 10(b), be employed at the following point in the case (e.g., within the next sixty days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery):
- Settlement conferences mediated by a Magistrate Judge have already occurred.

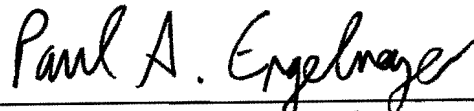
- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.
11. The Final Pretrial Order date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Order date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Rules and Practices and Fed. R. Civ. P. 26(a)(3). Any motions *in limine* shall be filed after the close of discovery on or before the Final Pretrial Order date. Proposed findings of fact and conclusions of law should be submitted on or before the Final Pretrial Order date.
12. Counsel for the parties have conferred and their present best estimate of the length of trial is 2 days.

TO BE COMPLETED BY THE COURT:

The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Fed. R. Civ. P. 16(b).

13. The next Case Management Conference is scheduled for June 7, 2013 at ^{11:30 a.m.}~~4:00 p.m.~~

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend the dates herein (except as noted in paragraph 6) shall be made in a written application in accordance with paragraph 1.E of the Court's Individual Rules and Practices and shall be made no less than two (2) business days prior to the expiration of the date sought to be extended.



Paul A. Engelmayer
United States District Judge

Dated: New York, New York
April 17 2013